

Provider Audit Workgroup Report
Senate Enrolled Act 364-2016

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Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
December 1, 2016



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This report is submitted to the Legislative Council pursuant to Senate Enrolled Act (SEA) 364-2016.

Background

On March 21, 2016, Governor Pence signed SEA 364 into law. The bill as introduced would have mandated extensive statutory changes to Indiana's Medicaid audit policies and procedures; however, the legislation was amended to instead require the Family and Social Services Administration's (FSSA) Office of Medicaid Policy and Planning (OMPP) to meet with stakeholders and address concerns voiced by the provider community. The full text of the legislation follows.

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning.

(b) The office shall establish a work group consisting of:

(1) office employees; and

(2) multiple Indiana Medicaid providers, representing various Medicaid reimbursable health care services; to discuss the policies and procedures used in the performance of Medicaid provider audits and possible improvements to the audit process.

(c) Before December 1, 2016, the office shall submit a written report of the work group's findings and any statutory recommendations to the legislative council in an electronic format under IC 5-14-6.

(d) This SECTION expires December 31, 2016.

SECTION 2. An emergency is declared for this act

FSSA staff determined that the workgroup should include members representing various provider associations and be advised by public servants whose duties are specific to Medicaid fraud and program integrity. Therefore, the office invited members of the FSSA Medicaid Advisory Committee (MAC) to sit on the workgroup. The MAC meets quarterly and is a venue for the public to provide input to the state Medicaid agency on aspects of the program. The MAC provides feedback on the program policies and proposed policies that ensure the program is responsive to concerns. Committee members include elected officials, provider representatives, consumer representatives, taxpayer representatives and citizens. FSSA staff also invited representatives from the three managed care health plans (Anthem, Managed Health Solutions, and MDwise) to participate in the discussion since many providers would interact with them as well.

FSSA staff communicated with other state agencies, offices, and contractors to ensure the workgroup would receive in depth briefings on current audit processes from the appropriate subject matter experts. In addition to OMPP staff, the workgroup was advised by the FSSA Program Integrity Unit, the FSSA Office of General Counsel (OGC) and the Office of the Indiana Attorney General's Medicaid Fraud and Control Unit (MFCU). Additionally, FSSA's contractor, Myers & Stauffer, attended meetings and presented before the workgroup.

Proceedings

The Medicaid Provider Audit Workgroup was tasked with discussing audit policies and procedures used by the State; however, FSSA staff felt strongly that providers or individuals not necessarily represented by members of the MAC should have the opportunity to comment on issues relevant to this subject. Therefore, it was decided that formal workgroup meetings would be open to the public to attend and allow for public comment if time permitted.

Initial Workgroup Meeting

The first Medicaid Provider Audit Workgroup meeting was called to order on June 8, 2016 in Indianapolis. Workgroup members convened to discuss the scope of the body's work and receive briefings from FSSA staff. FSSA Office of General Counsel and the FSSA Program Integrity Unit gave presentations on current audit processes and contractors utilized by the state and relevant federal requirements the State must comply with as the agency conducts provider audits. Members of the workgroup questioned state staff and engaged in discussion concerning their issues with the standards and procedures used by the agency. FSSA staff requested input from members that would be helpful in shaping discussion or agenda items in future meetings. Some members raised concerns that current audit processes could deter providers from participating in the Medicaid program. Others asked questions about identification of underpayments, the length of time providers must retain records and the use of extrapolation when calculating overpayments. After members finished questioning staff and discussing topics for the workgroup to review, FSSA allowed members of the audience an opportunity to comment on the group's efforts. However, individuals in attendance did not sign-up to provide comments on the first day.

FSSA presented a plan to the workgroup that included separate public hearings to give individuals additional opportunities in their own communities to provide comments for the record. Three public hearings were held in Indianapolis, Evansville and Mishawaka in July.

Public Hearing: Indianapolis

The first public hearing was held in Indianapolis on July 11, 2016. The hearing was well attended with numerous providers registered to provide public comments for the record. Most speakers provided extensive details concerning current or past audits and their overall experience with the process. The majority of individuals who testified were from the dental community. Provider education, auditor training, extrapolation, and record retention were common themes.

Speakers frequently asserted that FSSA did not provide enough education concerning its auditing practices and what was expected of providers. Some advocated for improvements to provider education, possibly as an alternative to repayment.

Two attendees commented that auditors should have backgrounds in a field related to the audit. They suggested that an entity auditing a dentist should have an individual trained in dentistry working on the audit.

Individuals questioned the use of extrapolation and the accuracy of audit findings. One speaker emphasized that audits usually have a 90%-95% confidence level.

Record retention and the lookback period for audits was also a reoccurring concern. Providers made the case that FSSA's 7 year lookback policy is too long. One attendee noted that changes in technology can make it difficult to recover documentation from previous years. Another offered that a 2-3 year lookback period would be more appropriate.

Other notable comments included improvements to appeals processes, problems with communication, issues with underpayments and paying auditing entity's on commission. FSSA heard again from those in attendance that current practices may discourage provider participation in the Medicaid program.

Public Hearing: Evansville

The second public hearing was held in Evansville on July 13, 2016. The hearing was poorly attended. Only one attendee offered public comments following an overview of the workgroup's activities from FSSA. Other attendees were at the meeting as observers only and did not register to speak. The executive director of the Indiana Dental Association (IDA) noted that the professional association had been involved in the drafting of the original Senate bill. IDA explained that they had received concerns from the association's members concerning audits. They noted that some dentists may have been misinformed concerning the circumstance of their audits and highlighted issues with communication starting with the initial letter to providers, resulting in panic. Another issue raised by dentists involved administrative errors. IDA stated that dentists disagreed with having to pay back funds for minor administrative errors, such as missing signatures, and that the emphasis should be placed on provider education. In summary, IDA suggested that providers were alarmed with the initial audit findings and that FSSA should look to improving communication methods to prevent this reaction and avoid discouraging provider participation in the Medicaid program.

Public Hearing: Mishawaka

The third and final public hearing was in Mishawaka on July 18, 2016. The meeting was well attended by a variety of providers from northern Indiana. Providers raised many of the same concerns that the State had heard in previous meetings. Another speaker who had gone through an audit raised the issue of the administrative burden on providers throughout the process and the strain on their staff to dig up the necessary documentation from years prior. They attributed change in staff and technology to the difficulties they faced in meeting deadlines, even when an extension was granted. Additionally, they noted that underpayments should be factored into the audit findings. FSSA staff heard again that there needs to be better education and communication from the State.

Second Workgroup Meeting

The full workgroup met again in Indianapolis on August 23, 2016. The FSSA Program Integrity Unit again briefed members on the audit process. Due to questions and concerns with the use of extrapolation in the audit process that were raised during previous meetings and hearings, Myers and Stauffer, one of the State's Program Integrity Fraud & Abuse Detection Services contractors, provided members with an overview of extrapolation and explained how mispayments are currently estimated. Workgroup members expressed interest in acquiring presentations, which had been posted on FSSA's website that day. Following presentations from the agency and contractors, FSSA staff briefed members on the common concerns individuals around the State had voiced. Common issues were divided into four categories:

- Look Back Period
- Audit Methodology
- Communication and Transparency
- Provider Education

FSSA staff asked members for input on these areas for reform. Members had mixed responses to what the appropriate length of time should be for record retention. Some suggested that their associations would prefer 2 or 3 year look back period for audits. Another member suggested that the agency should look at 6 years and best practices. The workgroup had previously discussed that the Centers for Medicare and Medicaid Services would be moving to a 6 year requirement in the Medicare program. It was noted that it can be confusing for providers to have different standards for multiple payers.

Provider education was raised again by members of the workgroup and FSSA discussed challenges with getting providers to recognize the importance of this information. FSSA staff informed members that the agency had recently expanded its provider workshops to include special sessions for program integrity, but expressed frustration with the lack of interest from providers on this topic. The agency sought input from workgroup members as to how they could get this critical information to the appropriate individuals. One member noted that the various provider associations could play a role in informing their membership. Another suggested considering a continuing education webinar series.

Communication and transparency were also discussed. It was noted that the perception of fairness could be improved. To that point, there was discussion on posting more information related to audits on the FSSA website, such as annual audit plans and previous audit findings. There was also concern with providers not fully understanding what needed to be done following the initial letter concerning audit findings. FSSA staff explained that they were looking at the information included in letters sent to providers. One member asserted that providers should also be informed of revisions to current regulations.

Recommendations

In formal workgroup meetings, public hearings and written comments submitted to the agency, FSSA staff received input from stakeholders that was organized into four categories. The same concerns were expressed by workgroup members representing professional associations and by individual providers.

Lookback period

- The lookback period needs to be reduced from seven years. The community feels that two or three years is sufficient.

Audit methodology

- FSSA needs to conform with statistical industry practices. Generally accepted statistical standards should be defined and published. FSSA should align its methodologies with Medicare whenever possible.
- Auditors should be licensed health care professionals in relevant fields. For example, dentists should be audited by an individual with a background in dentistry.
- FSSA should factor underpayments into extrapolations and offset recoupments.

Communication

- FSSA staff need to communicate better with providers before, during, and after audits.

- FSSA should improve audit transparency by posting materials on IndianaMedicaid.com regarding audit work plans, enhanced audit process guidance, and previous audit findings.
- FSSA's audit communication templates should be revised to be more provider friendly and help providers understand the importance of the audit, the nature of the proceedings, and where to find helpful resources.

Provider education

- FSSA staff should develop more audit-related guidance and update it regularly.
- FSSA should partner with provider associations and other industry groups to expand learning opportunities, including for continuing education credit.
- FSSA should educate providers rather than seek repayment.

Conclusion

The Provider Audit Workgroup met a final time on October 26, 2016 to approve this report.

The Provider Audit Workgroup appreciates the input from all who participated in the public forums held to discuss audit processes. In total, 17 comments were received orally and in writing. FSSA leadership will consider this report and its recommendations for implementation. The Medicaid Director will issue a response to this report within 30 days of receipt, including what actions the agency will take.

FSSA staff shall submit this report, including the Medicaid Director's response, to the Legislative Council in the prescribed format by December 1, 2016.

Appendix A: June 8, 2016 Provider Audit Workgroup meeting materials

The inaugural meeting of the Provider Audit Workgroup was held on June 8, 2016. Workgroup members were given information about state and federal laws and regulations and the program integrity process.

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Appendix B: August 23, 2016 Provider Audit Workgroup meeting materials

The Provider Audit Workgroup met on August 23, 2016 to discuss the audit process steps, extrapolation, and the findings of the public hearings. The Workgroup provided recommendations for staff to include in this report.

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Appendix C: October 26, 2016 Provider Audit Workgroup meeting materials

The Provider Audit Workgroup met on October 26, 2016 to discuss the draft report and approve it for submission.

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Appendix D: Public comments and testimony on provider audits

The Family and Social Services Administration’s Office of Medicaid Policy and Planning held three public hearings around the state to solicit provider input on the audit process. Dates and locations are displayed in the table below. Full text of written and oral comments are included in addition to the brief presentation at each location.

<u>Date</u>	<u>Location</u>	<u>Number of Attendees</u>
July 11, 2016	Indiana Government Center South, Indianapolis	38
July 13, 2016	Deaconess Hospital, Evansville	6
July 18, 2016	St. Joseph Regional Medical Center, Mishawaka	18

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Appendix E: FSSA response to Provider Audit Workgroup recommendations

Family and Social Services Administration leadership reviewed the recommendations of the Provider Audit Workgroup and issued the following response with respect to implementation.

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